

REMARKS

Claims 25-40 are pending. Claims 1-24 are cancelled. Claim 25 is currently amended. Claim 40, which depends on claim 25, is new. No new matter has been added by these amendments.

Independent claim 25 is amended to more particularly point out that the delivery member has a “generally continuous cylindrical configuration.” Support for this amendment appears, *inter alia*, in Figures 1-6 of the specification as filed. Claim 25 is also amended to more particularly point out that the device includes “a mechanism capable of applying negative pressure” through the therapeutic agent delivery lumen to remove fluid from the delivery member. Support for this amendment appears, *inter alia*, at paragraph [0021] of the specification as filed.

Rejections under 35 U.S.C. § 102(b)

Claims 25-39 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,713,853 to Clark et al. (“Clark”). These rejections should be withdrawn.

Clark describes a drug delivery device comprising a catheter 700 with a shaft 702 and an expandable distal portion comprised of a plurality of longitudinal ribs 706 with a sleeve 704 as a means of compression. Delivery lumens 710 provide drugs to the ports 708 which are in each rib 706. (Clark at 13:45-14:10).

Independent claim 25 recites a medical device for delivering a therapeutic agent, comprising “a self-expanding delivery member...being shaped in a generally continuous cylindrical configuration from a porous material,” a therapeutic agent delivery lumen, and “a mechanism capable of applying negative pressure through the therapeutic agent delivery lumen to remove fluid from the delivery member.” As described in the present specification, the continuity of the cylindrical configuration allows the delivery member 18 to make better contact with the target wall vessel 46, which facilitates a more uniform delivery of the therapeutic agent. In contrast, Clark does not disclose or suggest a delivery member that is shaped in a generally continuous cylindrical configuration from a porous material, but rather discloses a delivery member that is comprised of a plurality of longitudinal ribs, with clear spaces or gaps therebetween. (See Clark at Figs. 24-25). Furthermore, Clark does not disclose a mechanism capable of applying negative pressure through the therapeutic agent delivery lumen to remove fluid from the delivery member. Thus, as Clark fails to describe each and every element of claim 25, the rejection of claim 25 should be withdrawn.

Moreover, as claims 26-40 depend from claim 25, these claims are patentable for at least the same reasons that claim 1 is patentable.

CONCLUSION

It is believed claims 25-40 are in condition for allowance. Should Examiner not agree with any of Applicant's positions or arguments herein, a telephonic or personal interview is respectfully requested to discuss and resolve any remaining issues.

A one-month extension fee in the amount of \$120 is believed due for this response. Please charge this fee, and any additional fee(s) that may be due, to Jones Day Account No. 503013.

Respectfully submitted,

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